

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 02-12489-RWZ

GLOBAL NAPS, INC.,

v.

VERIZON NEW ENGLAND INC.

ORDER

October 12, 2010

ZOBEL, D.J.

The court-appointed receiver Carl F. Jenkins asks the court to find that the amended bylaws of the judgment debtors, enacted on February 10, 2009 after the judgment debtors were enjoined from encumbering any of their property (Docket # 508), are invalid. The court held a hearing at which the judgment creditor Verizon also urged the court to find the amended bylaws invalid. By order dated August 9, 2010, the court held invalid one of the bylaws, but at the judgment debtors' request, gave leave to submit further arguments as to the applicability of the remainder. (Docket # 649.) Judgment debtor Frank Gangi did submit further briefing but nowhere addressed the validity of the bylaws. Upon consideration of the parties' arguments, I am persuaded that the amended bylaws are invalid and violate prior restraining orders.

Gangi's briefing instead asks the court to order the receiver to fund certain Global Naps litigation or, in the alternative, to advance funds pursuant to an indemnification provision so that he may pursue the litigation himself. His request is

denied. The decision whether and how to pursue litigation is a matter of business judgment, best resolved by the receiver. Gangi is also not a defendant in any of the three pending actions for which he seeks funds to litigate so there is no issue of indemnification.

The receiver's motion for further instruction and orders (Docket # 641) is ALLOWED, and it is so ordered. The receiver's motion for order of sale of real property (Docket # 664) is ALLOWED. Gangi's motions for extension of time (Docket # 657), to seal documents (Docket # 669) and for leave to file a reply (Docket # 680) are allowed.

October 12, 2010

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE